

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STATE OF NEW MEXICO *ex rel.*
State Engineer

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Plaintiff,

69cv07941 JEC-ACE

CLERK'S OFFICE

v.

ROMAN ARAGON, *et. al.*,
Defendants.

RIO CHAMA STREAM SYSTEM
Rutheron & Plaza Blanca, Section 7
Subfile No: CHRU-003-001

STATEMENT OF OMITTED CLAIM

COMES NOW Cassutt, Hays & Friedman, P.A., and on behalf of claimant, Norm Vogt states as follows:

1. In March of 1996, Norm Vogt purchased from D.K. Davis those water rights appurtenant to 14.22 acres of the 20.89 acre parcel of land owned by Alfred O. Peralta and Elizabeth Peralta ("Peralta Parcel").

2. A Change of Ownership of Water Rights was filed with the New Mexico State Engineers Office and recorded in Rio Arriba County Clerk's Office on March 28, 1996 which evidences this transfer of water rights to Norm Vogt.

3. Subsequently, a Quit Claim from D.K. Davis to Norm Vogt was executed and recorded in the Rio Arriba County Clerk's Office evidencing Norm Vogt's rights to those "water rights appurtenant to 14.22 acres of land (diversion amount 21.33 acre-feet per annum) located in the E1/2, SE1/4, SE 1/4 of Section 2, T. 3 S., R. 2 E., as situated in the Arlington Land Company's Subdivision of a portion of the Tierra Amarilla Grant, Rio Arriba County, New Mexico."

4. In the Consent Order filed on July 31, 2002 the surface water irrigation rights of Norm Vogt were incorrectly omitted and 8.4 acres of irrigation water rights associated with the

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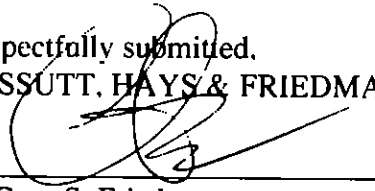
Peralta Parcel were mistakenly awarded to Mr. and Mrs. Peralta.

5. The Consent Order is incorrect because it mistakenly assumed that Mr. and Mrs. Peralta owned all the water rights associated with their 20.89 acre tract.

6. Norma Vogt is entitled to most of these water rights. More specifically, Mr. Vogt owns 68% (14.22 divided by 20.89) of those water rights associated with the 20.89 acre parcel and Mr. and Mrs. Peralta are only entitled to 32% (6.67 divided by 20.89) of such water rights. If only 8.4 acres of irrigation water rights are allocated to the Peralta Parcel by the State Engineer's Office and the Court, then Mr. Vogt is entitled, at the very least, to 5.712 acres of water rights or the equivalent diversion amount of 8.568 acre feet per annum (5.712 multiplied by 1.5 for every acre conveyed).

7. Norm Vogt also claims that there are additional water irrigation rights on the northwest and southern sides of the Peralta Parcel and believes that an inspection of the Peralta Property would support his claim to water rights above the 8.4 of irrigation water rights allocated under the Consent Order.

Respectfully submitted,
CASSUTT, HAYS & FRIEDMAN, P.A.

By: 

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